

AMENDED IN ASSEMBLY JULY 3, 2014

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 170

Introduced by Senator Wolk

February 4, 2013

An act to amend Sections 110480 and 113789 of the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 170, as amended, Wolk. Bale Grist Mill State Historic Park.

Existing law prohibits, with some exceptions, the manufacture, packing, or holding of processed food without a valid registration from the State Department of Public Health.

This bill would exempt from the registration requirements the milling, packaging, and selling of grain produced and sold at a water-driven grist mill on the National Register of Historic Places, provided best management practices suitable for a historic water-driven grist mill are followed for the processing and handling of the product, the flour is identified as being produced in a historic mill using traditional methods, and the product meets *applicable* federal food adulteration purity standards.

Existing law, the California Retail Food Code, provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the department and is primarily enforced by local health agencies. A violation of any provision of the code is a misdemeanor.

This bill would exclude from the definition of a retail food facility a water-driven grist mill that is on the National Register of Historic Places and that has onsite sales of grain that is milled at the facility.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 110480 of the Health and Safety Code
2 is amended to read:
3 110480. The registration provisions of this article shall not
4 apply to any person whose manufacturing, packing, or holding of
5 processed food is limited solely to temporarily holding processed
6 foods for up to seven days for further transport if the foods are not
7 potentially hazardous foods, as defined in Section 110005, or to
8 any person whose manufacturing, packing, or holding of processed
9 food is limited solely to activities authorized by any of the
10 following:
11 (a) A valid bottled water or water vending machine license
12 issued pursuant to Article 12 (commencing with Section 111070).
13 (b) A valid pet food license issued pursuant to Chapter 10
14 (commencing with Section 113025) of Part 6.
15 (c) A valid permit issued pursuant to Chapter 4 (commencing
16 with Section 113700) of Part 7 to a food facility including a food
17 facility that manufactures, packs, or holds processed food for sale
18 at wholesale, provided the food facility that manufactures, packs,
19 or holds processed food for sale at wholesale does not meet any
20 of the following conditions:
21 (1) Has gross annual wholesale sales of processed foods of more
22 than 25 percent of total food sales.
23 (2) Sells processed foods outside the jurisdiction of the local
24 health department.
25 (3) Sells processed foods that require labeling pursuant to this
26 part.
27 (4) Processes or handles fresh seafood, frozen seafood held in
28 bulk for further processing, or fresh or frozen raw shellfish.
29 (5) Salvages processed foods for sale other than at the retail
30 food facility.
31 (d) A valid cold storage license issued pursuant to Chapter 6
32 (commencing with Section 112350) of Part 6.
33 (e) A valid cannery license issued pursuant to Chapter 8
34 (commencing with Section 112650) of Part 6.

1 (f) A valid shellfish certificate issued pursuant to Chapter 5
2 (commencing with Section 112150) of Part 6.

3 (g) A valid frozen food locker plant license issued pursuant to
4 Chapter 7 (commencing with Section 112500) of Part 6.

5 (h) A valid winegrower's license or wine blender's license
6 pursuant to Division 9 (commencing with Section 23000) of the
7 Business and Professions Code.

8 (i) A valid milk products plant, margarine, imitation ice cream,
9 imitation ice milk, or a products resembling milk products plant
10 license, issued pursuant to Division 15 (commencing with Section
11 32501) of the Food and Agricultural Code.

12 (j) A valid permit issued by a local health department to operate
13 a processing establishment, as defined in Section 111955, that only
14 holds or warehouses processed food, pursuant to Article 1
15 (commencing with Section 111950) of Chapter 4 of Part 6,
16 provided that all of the following conditions are met:

17 (1) The warehouse does not manufacture or pack processed
18 food.

19 (2) The warehouse does not hold fresh seafood, frozen seafood
20 held in bulk for further processing, or fresh or frozen raw shellfish.

21 (3) The warehouse is not operated as an integral part of a food
22 processing facility required to be registered pursuant to Section
23 110460.

24 (4) The warehouse facilities are located entirely within the area
25 under the jurisdiction of the local health department.

26 (5) The warehouse does not salvage food as the primary
27 business.

28 (k) This section shall not be construed to limit the authority of
29 Los Angeles, San Bernardino, and Orange Counties, or of the City
30 of Vernon, to conduct any inspections otherwise authorized by
31 Chapter 4 (commencing with Section 111950) of Part 6.

32 (l) The milling, packaging, and selling of grain produced and
33 sold at a water-driven grist mill on the National Register of Historic
34 Places, provided best management practices suitable for a historic
35 water-driven grist mill are followed for the processing and handling
36 of the product, the flour is identified as being produced in a historic
37 mill using traditional methods, and the product meets *applicable*
38 federal food adulteration purity standards.

39 SEC. 2. Section 113789 of the Health and Safety Code is
40 amended to read:

1 113789. (a) “Food facility” means an operation that stores,
2 prepares, packages, serves, vends, or otherwise provides food for
3 human consumption at the retail level, including, but not limited
4 to, the following:

5 (1) An operation where food is consumed on or off the premises,
6 regardless of whether there is a charge for the food.

7 (2) Any place used in conjunction with the operations described
8 in this subdivision, including, but not limited to, storage facilities
9 for food-related utensils, equipment, and materials.

10 (b) “Food facility” includes permanent and nonpermanent food
11 facilities, including, but not limited to, the following:

12 (1) Public and private school cafeterias.

13 (2) Restricted food service facilities.

14 (3) Licensed health care facilities, except as provided in
15 paragraph (13) of subdivision (c).

16 (4) Commissaries.

17 (5) Mobile food facilities.

18 (6) Mobile support units.

19 (7) Temporary food facilities.

20 (8) Vending machines.

21 (9) Certified farmers’ markets, for purposes of permitting and
22 enforcement pursuant to Section 114370.

23 (10) Farm stands, for purposes of permitting and enforcement
24 pursuant to Section 114375.

25 (c) “Food facility” does not include any of the following:

26 (1) A cooperative arrangement wherein no permanent facilities
27 are used for storing or handling food.

28 (2) A private home, including a cottage food operation that is
29 registered or has a permit pursuant to Section 114365.

30 (3) A church, private club, or other nonprofit association that
31 gives or sells food to its members and guests, and not to the general
32 public, at an event that occurs not more than three days in any
33 90-day period.

34 (4) A for-profit entity that gives or sells food at an event that
35 occurs not more than three days in a 90-day period for the benefit
36 of a nonprofit association, if the for-profit entity receives no
37 monetary benefit, other than that resulting from recognition from
38 participating in an event.

39 (5) Premises set aside for wine tasting, as that term is used in
40 Section 23356.1 of the Business and Professions Code and in the

1 regulations adopted pursuant to that section, that comply with
2 Section 118375, regardless of whether there is a charge for the
3 wine tasting, if no other beverage, except for bottles of wine and
4 prepackaged nonpotentially hazardous beverages, is offered for
5 sale for onsite consumption and no food, except for crackers, is
6 served.

7 (6) Premises operated by a producer, selling or offering for sale
8 only whole produce grown by the producer, or shell eggs, or both,
9 provided the sales are conducted on premises controlled by the
10 producer.

11 (7) A commercial food processing plant as defined in Section
12 111955.

13 (8) A child day care facility, as defined in Section 1596.750.

14 (9) A community care facility, as defined in Section 1502.

15 (10) A residential care facility for the elderly, as defined in
16 Section 1569.2.

17 (11) A residential care facility for the chronically ill, which has
18 the same meaning as a residential care facility, as defined in Section
19 1568.01.

20 (12) Premises set aside by a beer manufacturer, as defined in
21 Section 25000.2 of the Business and Professions Code, that comply
22 with Section 118375, for the purposes of beer tasting, regardless
23 of whether there is a charge for the beer tasting, if no other
24 beverage, except for beer and prepackaged nonpotentially
25 hazardous beverages, is offered for sale for onsite consumption,
26 and no food, except for crackers or pretzels, is served.

27 (13) (A) An intermediate care facility for the developmentally
28 disabled, as defined in subdivisions (e), (h), and (m) of Section
29 1250, with a capacity of six beds or fewer.

30 (B) A facility described in subparagraph (A) shall report any
31 foodborne illness or outbreak to the local health department and
32 to the State Department of Public Health within 24 hours of the
33 illness or outbreak.

34 (14) A water-driven grist mill that is on the National Register
35 of Historic Places and that has onsite sales of grain that is milled
36 at the facility.